

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

TERRANCE GUINN PETITIONER
VS. CIVIL ACTION NO. 5:22-CV-38-DCB-LGI
UNITED STATES OF AMERICA RESPONDENT

ORDER

THIS MATTER is before the Court on Magistrate Judge Isaac's Report & Recommendation ("R&R") [ECF No. 8], concerning Petitioner Terrance Guinn's ("Petitioner") Motions for Leave to Proceed in forma pauperis ("IFP") [ECF No. 2]; [ECF No. 7] ("Motions"). The R&R was entered on March 7, 2023, and objections to it were due by March 21, 2023. No party has filed an objection, and the time to do so has elapsed.

Judge Isaac recommended that the Court deny Petitioner's Motions and dismiss his case with prejudice, or alternatively, without prejudice. [ECF No. 8] at 6-7. Judge Isaac justifies her recommendation because Petitioner falsified his Motions and allegations of poverty. Id. In his first Motion, Petitioner answered every question regarding his income, assets, bank accounts, and expenses with either "NA" or "0". [ECF No. 2]. Petitioner later revealed that he receives \$4,300.00 in income from disability payments, which is well above the poverty line based on his circumstances. [ECF No. 7]. Petitioner also later

reported that he owns two vehicles, one of which is valued at over \$70,000.00. Id.

"Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that...the allegation of poverty is untrue..."¹ 28 U.S.C. § 1915(e) (2) (A). Dismissal is mandatory if the court determines that "the contents of an IFP application are false." Nottingham v. Warden, Bill Clements Unit, 837 F.3d 438, 441 (5th Cir. 2016).

"[C]ases are appropriately dismissed with prejudice when 'evidence exists of bad faith, manipulative tactics, or litigiousness.'" Castillo v. Blanco, 330 F. App'x 463, 466 (5th Cir. 2009) (quoting Lay v. Justices-Middle District Court, 811 F.2d 285, 286 (5th Cir. 1987)). Petitioner's egregiously false statements in his first motion sought to deceive the Court in bad faith and, therefore, warrant dismissal with prejudice of his claims. See Washington v. M. Rodrigue & Son, Inc., No. CIV.A. 12-938, 2013 WL 1814918, at *2-3 (E.D. La. Apr. 29, 2013) (finding the plaintiff's "false and misleading information in his Pauper Affidavit," were "sufficiently egregious to warrant

¹ Although Petitioner ultimately paid the requisite filing fee after Judge Isaac entered this R&R, § 1915 nevertheless requires the Court to dismiss Petitioner's case.

the mandatory dismissal of his case with prejudice, as a penalty for defrauding the Court and as a deterrent of future conduct").

After conducting a de novo review of the R&R, the Court agrees with Judge Isaac's recommendation. Accordingly, the R&R is ADOPTED. Petitioner's Motions are DENIED and his claims against Respondent are hereby DISMISSED with prejudice.

A Final Judgment shall be entered of even date herewith pursuant to Rule 58 of the Federal Rules of Civil Procedure.

SO ORDERED, this 3rd day of April, 2023.

/s/ David Bramlette
DAVID C. BRAMLETTE
UNITED STATES DISTRICT JUDGE